

1994

Doreen Marie Wygant a/k.a Doreen Marie
Baldino a/k/a Doreen Marie Neal v. Richard T.
Wygant Wygant v. Wygant : Reply Brief

Utah Court of Appeals

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Doreen M. Wygant/Baldine/Neal; Appellee, Pro Se.

Richard T. Wygant; Appellant, Pro Se.

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UTAH COURT OF APPEALS

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IN THE UTAH COURT OF APPEALS

Doreen Marie Wygant
a/k/a Doreen Marie Baldino
a/k/a Doreen Marie Neal,

PLAINTIFF and APPELLEE

-VS-

Richard T. Wygant,

DEFENDANT and APPELLANT

Appellate Court No. 940048-CA

APPELLANT'S REPLY BRIEF

APPEAL

Appeal for the Third District Court, Salt Lake County, Judge Timothy R. Hanson

Rule 29(b) Priority 15

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TABLE OF AUTHORITIES

No authorities were needed or used in this Reply Brief

STATUTES:

No statutes were cited, needed, or used in this Reply Brief

ARGUMENT:

The appellee does not disagree with the reasonableness of the minimum visitation schedule provided for by U.C.A § 30-3-35, but argues that the appeal lacks jurisdiction for two reasons: i) appellant did not appeal the original decree of divorce within the allowed time, and ii) the Memorandum Decision and Order was not a final order from which an appeal may be taken. The appellee is incorrect on both assumptions. First, the defendant is not required to appeal the original divorce decree, as appellant does not disagree that he is entitled to reasonable visitation. Further, appellee indicates that appellant is appealing a visitation order. See Summary of Arguments in Appellee Brief page 6. Secondly, the Memorandum Decision and Order is an appealable order as it ended the controversy between the parties. This argument was previously brought to the Appellate Court's attention when the Court attempted to dismiss the appeal for lack of jurisdiction. Appellant's Memorandum Objecting to Summary Disposition outlines the reason why the Memorandum Decision and Order is in fact a final appealable order. The Court of Appeals was convinced of the argument at that time and ordered that its own motion be denied March 22, 1994. It is apparent that appellee's counsel did not review the Court files. Had he done so Mr. Roger K. Tschanz would have found the Order dated March 22, 1994. Appellant believes this is an oversight on counsel's part.

The body of appellee's argument addresses 1) jurisdiction, 2) overturning the 1988 Decree of Divorce, and 3) the nature of the Court of Appeals in relation to the Utah legislature. The

following will address each issue in order.

1. The Court of Appeals previously addressed the jurisdiction issue.
2. The appellant did not appeal the 1988 Decree of Divorce. Rather the appellant appealed the Memorandum Decision and Order dated December 16, 1993. The appellant has never asked the Utah Court of Appeals to overturn the Decree of Divorce.
3. The Utah legislature attempted to resolve a problem which has existed for a long period of time, namely visitation between parties which is in the best interest of the children. The Appellant Brief clearly outlines why the appellant holds that since the appellant was awarded reasonable visitation and the 1993 statute is uncontrovertedly reasonable, appellant is entitled to the minimum visitation schedule. The Appellant brief brought out some ambiguities which require the Court's interpretation.

CONCLUSION:

Finally, the appellee does not show why the appeal should be dismissed for lack of jurisdiction. The appellee should have filed an appropriate motion with the Court if she wanted to bring up a jurisdiction argument. The appellee should have saved the Appellee Brief for issues raised in the appeal itself. The appellant can only interpret the lack of addressing the issues raised by the appellant in the Appellant Brief as appellee's agreement with those issues regarding reasonableness of the minimum visitation schedule. The appeal does not lack

jurisdiction. Therefore, appellant respectfully renews his request for relief as outlined in the Appellant Brief.

DATED THIS 6th DAY OF JANUARY, 1995.

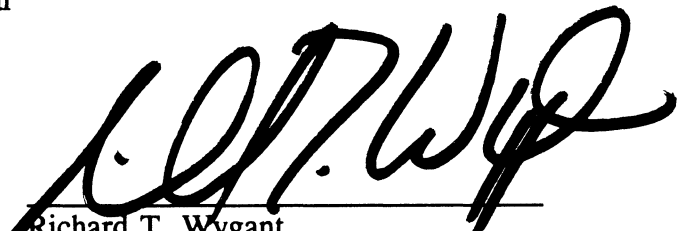


RICHARD T. WYGANT
DEFENDANT AND APPELLANT

CERTIFICATE OF SERVICE

I, Richard T. Wygant, served two (2) copies of the foregoing Appellant's Reply Brief upon Ms. Doreen M. Wygant a/k/a Baldino a/k/a Neal, the Pro Se appellee in this matter, by mailing it to her by first class mail with sufficient postage prepaid on this 6th day of January, 1995, to the following address:

Ms. Doreen M. Wygant a/k/a Baldino a/k/a Neal
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Richard T. Wygant